

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JORDAN SCHONER,

Petitioner,

v.

SARAH SCHONER,

Respondent.

:

:

Case No. 3:23-cv-382

Judge Walter H. Rice

:

Mag. Judge Peter B. Silvain, Jr.

:

ORDER OVERRULING WITHOUT PREJUDICE MOTION TO DISMISS OF
RESPONDENT SARAH SCHONER (DOC. #9); PURSUANT TO THE COURT'S MARCH
12, 2024, ORDER (DOC. #6), PETITIONER JORDAN SCHONER MUST SHOW CAUSE
NO LATER THAN MAY 3, 2024, WHY HIS PETITION SHOULD NOT BE DISMISSED
UNDER *YOUNGER V. HARRIS*; RESPONDENT MAY RESPOND TO PETITIONER'S
SHOWING WITHIN TWENTY-ONE (21) DAYS THEREAFTER; IF THE COURT
DETERMINES THAT IT MAY CONSIDER THE PETITION (DOC. #1), THEN
RESPONDENT MUST ANSWER, MOVE OR OTHERWISE RESPOND TO THE
PETITION WITHIN TWENTY-ONE (21) DAYS OF THE COURT'S ENTRY SETTING
FORTH THAT DETERMINATION

On March 12, 2024, this Court ordered Petitioner Jordan Schoner, within twenty-eight (28) days of serving Respondent Sarah Schoner with a copy of his Verified Petition for Return of the Children to Mexico and Issuance of Show Cause Order (Doc. #1) and filing notice of same with the Court, to show cause why the Petition should not be dismissed pursuant to the abstention doctrine set forth in *Younger v. Harris*. (Order, Doc. #6, PAGEID 173 (emphasis added), citing *Younger*, 401 U.S. 37 (1971)). Respondent was served on March 25, 2024, and she was automatically given a

deadline to answer the Petition of April 15, 2024; yet, notice of service was not filed until April 5, 2024. (Return of Summons, Doc. #8).

On April 15, 2024, Respondent filed a Motion to Dismiss the Petition pursuant to *Younger* abstention; therein, she claimed that Petitioner's deadline to show cause is April 22, 2024, twenty-eight days after service. (Doc. #9, PAGEID 303). However, because the Court's March 12, 2024, Order was phrased in the conjunctive, the twenty-eight day clock to show cause did not begin to run until the Return of Summons was filed on April 5. Thus, Petitioner's deadline to show cause is Friday, May 3, 2024. Respondent may respond to Petitioner's showing within twenty-one days of Petitioner's filing. As Respondent's Motion is based on *Younger*, the Motion is **OVERRULED WITHOUT PREJUDICE**. If the Court determines that Petitioner may proceed, then within twenty-one days after a Court entry setting forth said determination, Respondent shall, answer, move, or otherwise respond to the Petition.

IT IS SO ORDERED.

April 16, 2024



WALTER H. RICE, JUDGE
UNITED STATES DISTRICT COURT